#### BEFORE THE EMPLOYMENT APPEAL BOARD Lucas State Office Building Fourth floor Des Moines, Iowa 50319

CHARLES D ROBERTSON	:
CHARLES D ROBERTSON	HEARING NUMBER: 09B-UI-04422
Claimant,	:
and	: EMPLOYMENT APPEAL BOARD
	: DECISION
MARRIOTT HOTEL SERVICES INC	:

Employer.

# NOTICE

THIS DECISION BECOMES FINAL unless (1) a request for a REHEARING is filed with the Employment Appeal Board within 20 days of the date of the Board's decision or, (2) a PETITION TO DISTRICT COURT IS FILED WITHIN 30 days of the date of the Board's decision.

A REHEARING REQUEST shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-2-a

## DECISION

### UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE

The employer appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board, one member concurring, reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is AFFIRMED.

John A. Peno

Elizabeth L. Seiser

AMG/fnv

#### CONCURRING OPINION OF MONIQUE F. KUESTER:

I agree with my fellow board members that the administrative law judge's decision should be affirmed; however, I would comment that while the employer may have compelling business reasons to terminate the claimant, conduct that might warrant a discharge from employment will not necessarily sustain a disqualification from job insurance benefits. <u>Budding v. Iowa Department of Job Service</u>, 337 N.W.2d 219 (Iowa App. 1983). Although the employer has a policy that prohibits "... threatening either open or veiled, verbal or physical..." behavior (Tr. 4, lines 29-30), I would find that the employer failed to prove that the claimant's statement rose to the level of a threat such that would violate their policy.

Monique F. Kuester

AMG/fnv